

INFORMATION DISCLOSURE STATEMENT

Applicant : Mohamed K. Diab, et al.
App. No : 09/111,604
Filed : July 7, 1998
For : SIGNAL PROCESSING APPARATUS
Examiner : Eric Frank Winakur
Art Unit : 3768
Conf No. : 6003

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November 23, 2010

(Date)

/Jarom Kesler/

Jarom D. Kesler, Reg. No. 57,046

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is a PTO/SB/08 Equivalent ("SB08") listing four hundred and fifty-six (456) references, ten (10) of which are submitted herewith. The following is a brief summary of the listings.

The present application claims common priority information with, and shares some or all of its specification disclosure with forty-five (45) or more U.S. patents or U.S. patent applications ("present family of patents"). Several of those were part of a first group of litigations between Masimo Corporation and Mallinckrodt/Nellcor, all of which are now settled. Several are also now part of a second pending litigation between Masimo Corporation and Philips Electronics North America Corporation namely, *Masimo Corporation v. Philips Electronics North America Corporation and Philips Medizin System Böblingen GMBH, (District of Delaware, Case No. 09-000090(JJF))* ("the Philips Litigation"). At least one of the patents in the Philips litigation, U.S. Pat. No. 6,157,850, shares a common specification with the present application. In view of MPEP § 2001.06(c) and the involvement of members of the present family of patents in the above-mentioned litigations, the present submission lists documents **already filed with the Patent Office in the present family of patents**, except those nine references from the Philips litigation provided herewith.

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Specifically, U.S. Pat. App. No. 09/195,791, filed November 17, 1998, now U.S. Pat. No. 7,328,053, is the parent of the present continuation application, and is relied upon for an earlier filing date under 35 U.S.C. § 120. Moreover, U.S. Patent App. No. 12/27,7221, filed November 28, 2008, is a continuation of and relies on the 7,328,053 patent for an earlier filing date under 35 U.S.C. § 120. The U.S. Pat. and Foreign Documents cited herein are cited in the 12/27,7221 application while many other references herein are cited in the 7,328,053 patent.

The following is a brief explanation of the Non Patent Literature Documents cited herein.

| CITATION NOS. | BRIEF EXPLANATION |
|---------------|--|
| 348-400 | Non Patent Literature Documents cited in related file histories of patents and applications claiming common priority information. |
| 401-441 | From litigation with Mallinckrodt/Nelcor and cited pursuant to MPEP § 2001.06(c). |
| 442-450 | From <i>Masimo Corporation v. Philips Electronics North America Corporation and Philips Medizin System Böblingen GMBH</i> , (District of Delaware, Case No. 09-000090(JJF)) and cited pursuant to MPEP § 2001.06(c). |
| 451-455 | Copending patent applications. |
| 456 | Patently Obvious Analysis received on November 4, 2010 via email. |

The Applicants understand that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to, for example, specification and drawings publications, pending claims, and complete file histories, including, for example, cited art, office actions, responses, and notices of allowance. Thus, the Applicants have not enclosed copies of these documents. However, if the Examiner would like copies provided, the Applicants would be pleased to provide these references at any time upon request.

Moreover, to the best of the undersigned's understanding, the references submitted herewith represent documents or document portions that are non-confidential as defined by any protective order governing information exchanged between the parties to any of the litigations mentioned above. If the Examiner determines any additional information or documents would be instructive or helpful to the examination of the present application, the Examiner is encouraged to contact the undersigned, who will assist within the confines of any above-mentioned protective orders.

This Information Disclosure Statement is being filed within three months of the filing date, with an RCE or before receipt of a first office action after an RCE and no fee is required.

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The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 23, 2010

By: /Jarom Kesler/

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